



House of Representatives

General Assembly

File No. 23

February Session, 2000

Substitute House Bill No. 5133

House of Representatives, March 8, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Representation Of Children And Parents In Juvenile Proceedings.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. There shall be a task force to study the representation of
2 children and parents in juvenile proceedings. Said study shall include,
3 but not be limited to, consideration of (1) what form the delivery of
4 services should take, (2) funding for services, and (3) where the
5 administration of the system for delivery of services should be located.

6 Sec. 2. The task force shall consist of the following members: (1) The
7 Chief Court Administrator or a designee, who shall chair the task
8 force; (2) the Chief Administrative Judge for juvenile matters; (3) two
9 representatives of the Judicial Branch who are knowledgeable about
10 child protection proceedings, appointed by the Chief Court
11 Administrator; (4) the Commissioner of Children and Families, or a
12 designee; (5) the Attorney General, or a designee; (6) the Chief State's
13 Attorney, or a designee; (7) the Executive Director of the Commission

14 on Children, or a designee; (8) the Chief Public Defender, or a
15 designee; (9) the Child Advocate, or a designee; (10) two
16 representatives of the Children and the Law Committee of the
17 Connecticut Bar Association, one of whom shall be the chairperson of
18 said committee and one of whom shall be appointed by the president
19 of the Connecticut Bar Association; (11) two representatives of
20 nonprofit organizations advocating for children in the Superior Court
21 for Juvenile Matters, appointed by the Chief Court Administrator; (12)
22 two representatives of organizations advocating for parents in the
23 Superior Court for Juvenile Matters, appointed by the Chief Court
24 Administrator; (13) two current juvenile court practitioners from two
25 different Superior Courts for juvenile matters venue districts,
26 appointed by the Chief Court Administrator; and (14) one
27 representative of a nonprofit child advocacy group, appointed by the
28 Chief Court Administrator.

29 Sec. 3. Not later than January 1, 2001, the task force shall submit a
30 report on its findings and recommendations to the joint standing
31 committee of the General Assembly having cognizance of matters
32 relating to judiciary. The task force shall terminate on the date that it
33 submits such report or on January 1, 2001, whichever is later.

34 Sec. 4. Subsection (b) of section 46b-121 of the general statutes is
35 repealed and the following is substituted in lieu thereof:

36 (b) In juvenile matters, the Superior Court shall have authority to
37 make and enforce such orders directed to parents, including any
38 person who acknowledges before said court paternity of a child born
39 out of wedlock, guardians, custodians or other adult persons owing
40 some legal duty to a child or youth therein, as it deems necessary or
41 appropriate to secure the welfare, protection, proper care and suitable
42 support of a child or youth subject to its jurisdiction or otherwise
43 committed to or in the custody of the Commissioner of Children and
44 Families. In addition, with respect to proceedings concerning

45 delinquent children, the Superior Court shall have authority to make
46 and enforce such orders as it deems necessary or appropriate to punish
47 the child, deter the child from the commission of further delinquent
48 acts, assure that the safety of any other person will not be endangered
49 and provide restitution to any victim. Said court shall also have
50 authority to grant and enforce injunctive relief, temporary or
51 permanent in all proceedings concerning juvenile matters. If any order
52 for the payment of money is issued by said court, including any order
53 assessing costs issued under section 46b-134 or 46b-136, the collection
54 of such money shall be made by said court, except orders for support
55 of children committed to any state agency or department, which orders
56 shall be made payable to and collected by the Department of
57 Administrative Services. Where the court after due diligence is unable
58 to collect such moneys within six months, it shall refer such case to the
59 Department of Administrative Services for collection as a delinquent
60 account. In juvenile matters, the court shall have authority to make and
61 enforce orders directed to persons liable hereunder on petition of said
62 Department of Administrative Services made to said court in the same
63 manner as is provided in section 17b-745, in accordance with the
64 provisions of section 17b-81, 17b-223, subsection (b) of section 17b-179,
65 section 17a-90, 46b-129 or 46b-130, and all of the provisions of section
66 17b-745 shall be applicable to such proceedings. Any judge hearing a
67 juvenile matter may make any other order in connection therewith
68 within his authority to grant as a judge of the Superior Court and such
69 order shall have the same force and effect as any other order of the
70 Superior Court. In the enforcement of its orders, in connection with
71 any juvenile matter, the court may issue process for the arrest of any
72 person, compel attendance of witnesses and punish for contempt by a
73 fine not exceeding one hundred dollars or imprisonment not exceeding
74 six months. [Following an adjudication by the court, a fee of two
75 hundred dollars shall be assessed by the court against the parents,
76 guardian or custodian of any child or youth whenever the services of
77 the probation staff for juvenile matters is required.]

78 Sec. 5. Section 46b-135 of the general statutes is repealed and the
79 following is substituted in lieu thereof:

80 (a) At the commencement of any proceeding concerning the alleged
81 delinquency of a child, [the parent or parents or guardian and] the
82 child shall have the right to counsel and be so informed by the judge,
83 and that if [they are] such child is unable to afford counsel that counsel
84 will be provided for [them] such child. Such counsel and such [parent
85 or parents or guardian or] child shall have the rights of confrontation
86 and cross-examination.

87 (b) At the commencement of any proceeding on behalf of a
88 neglected, uncared-for or dependent child or youth, the parent or
89 parents or guardian of the child or youth shall have the right to
90 counsel, and shall be so informed by the judge, and that if they are
91 unable to afford counsel, counsel will be provided for them, and such
92 counsel and such parent or guardian of the child or youth shall have
93 the rights of confrontation and cross-examination.

94 Sec. 6. This act shall take effect July 1, 2000, except that sections 4
95 and 5 shall take effect October 1, 2000.

JUD Committee Vote: Yea 36 Nay 1 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Revenue Loss, Savings, Minimal Cost

Affected Agencies: Judicial Department, Legislative Management

Municipal Impact: None

Explanation

State Impact:

The bill results in a revenue loss of approximately \$45,000 per year to the General Fund and about \$16,450 in annual savings to the state. It also results in a minimal absorbable cost to the state.

The **revenue loss** results from the bill's elimination of a \$200 fee collected from the parents of a youth when probation services are ordered in delinquency proceedings under certain circumstances. These fees are collected in approximately 225 cases per year.

The **savings** result from the bill's elimination of court-appointed counsel for parents of juveniles involved in delinquency proceedings in certain cases. Currently, approximately \$16,450 annually is spent on counsel for parents or guardians in these cases.

The bill also results in a **minimal cost** by creating a task force to study the representation of children and parents in juvenile proceedings. These costs relate to potential mileage reimbursement for

legislators. This minimal cost can be handled within the anticipated budgetary resources of Legislative Management.

OLR Bill Analysis

sHB 5133

AN ACT CONCERNING REPRESENTATION OF CHILDREN AND PARENTS IN JUVENILE PROCEEDINGS.**SUMMARY:**

This bill:

1. eliminates parents' and guardians' rights to legal representation and to question witnesses in delinquency proceedings;
2. eliminates the \$200 fee a delinquent child's parents, guardians, or custodians must pay when a judge orders juvenile probation staff services; and
3. creates a 19-member task force to study and make recommendations on providing attorneys for children and parents in juvenile proceedings.

EFFECTIVE DATE: October 1, 2000, except the task force provisions take effect July 1, 2000.

PARENTAL PARTICIPATION IN DELINQUENCY PROCEEDINGS

The bill makes children the only parties entitled to legal counsel in delinquency proceedings. Parents or guardians may have a court-appointed lawyer only when a judge decides that justice requires it. The bill also eliminates their rights to question witnesses in delinquency hearings.

Currently, the judge in both delinquency and child neglect proceedings must tell the affected child or youth and his parents or guardians that they are entitled to legal representation, court-

appointed if they cannot afford it. (By court rule, unchanged by the bill, the legal notice summoning parents and children to appear to answer charges of delinquency must inform them of this.)

COURT CHARGES FOR PROBATION SERVICES

The bill eliminates the \$200 Superior Court assessment against parents, guardians, or custodians when a court orders Probation Department staff services for a child convicted as delinquent. It leaves unchanged the Judicial Department's authority to charge non-indigent parents or guardians for all or part of the child's probation costs.

LEGAL REPRESENTATION TASK FORCE

The task force's study and report must at least include:

1. how legal representation services in juvenile proceedings should be funded and delivered to children and parents and
2. where to locate their administration (it is unclear whether this refers to a geographic location or to which entity should administer the program).

It must report to the Judiciary Committee by January 1, 2001 and dissolve by that date or after submitting its report, whichever is later.

Task Force Members

The chief court administrator or a designee must chair the task force. The administrative judge for juvenile matters must also be a member. The chairperson of the Connecticut Bar Association's (CBA's) Children and the Law Committee and another committee member appointed by the CBA president must also serve on the task force.

Other public officials, or their designees, who must be members are the: Department of Children and Families commissioner, attorney general, chief state's attorney, Commission on Children executive director, chief public defender, and child advocate. The nine other members must be appointed by the chief court administrator as follows:

1. two Judicial Branch representatives knowledgeable about child protection proceedings,
2. two representatives of nonprofit organizations advocating for children in juvenile court,
3. two representatives of organizations advocating in juvenile court for parents,
4. two current juvenile court practitioners handling cases in different areas of the state, and
5. one non-profit child advocacy group representative.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 36 Nay 1